

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Kelley Analyst: Christy Keith Bill Number: SB 1754

Related Bills: See Prior Analysis Telephone: 845-6080 Amended Date: 6/13/2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer And Employee Public Transit Passes Credit/San Diego County

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended 4/10/2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED 4/10/2000 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and Bank and Corporation Tax Law (B&CTL), this bill would allow a credit equal to 40% of the cost paid or incurred by an employer for subsidizing public transit passes for employee transportation in San Diego County.

Under the PITL, this bill also would allow a credit to an employee of either 40% or 20% of the cost paid or incurred for subsidizing public transit passes, as defined under the employer credit described above. The applicable percentage would depend on the number of days the employee uses mass transit in San Diego County (80 days to qualify for the 40% credit or 40 days to qualify for the 20% credit).

This bill would also make changes under uncodified law. These changes do not affect the department and are not discussed in this analysis.

SUMMARY OF AMENDMENT

The June 13, 2000, amendments clarified that the employer must be located in a redevelopment area or a high density employment area.

The amendments also specified that the high density employment area includes the cities of Carlsbad, Centre City, Coronado, Mira Mesa, Otay Mesa, and Sorrento Valley.

The department's analysis of the bill as amended April 10, 2000, still applies. The implementation and technical considerations are provided below for convenience.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Legislative Director

Date

Johnnie Lou Rosas

7/6/00

IMPLEMENTATION CONSIDERATIONS

This bill provides authority under the Revenue and Taxation Code for the City of San Diego to designate "redevelopment areas" but does not establish any criteria in the Revenue and Taxation Code or elsewhere for making such a designation.

This bill does not define what constitutes "increased traffic congestion," "employed," or a "high number" of individuals. The lack of definition could lead to disputes between taxpayers and the department regarding the correct interpretation of these terms.

The provision in this bill that would allow an employee a different credit amount based on the number of days the transit pass is used would be difficult if not impossible to administer. The employee-taxpayers would have no way of verifying the actual number of days mass transit was used. Without a verification mechanism in place, taxpayers may claim the 40% credit regardless of how many days mass transit was used.

The bill limits the employee credit to an employee as defined in the employer credit. However, the employer credit specifically excludes governmental employers. It is unclear whether amounts paid or incurred by a governmental employee for the purchase of a subsidized public transit pass would be eligible for the employee credit.

This bill would provide an unlimited carryover period for excess credit amounts. Credits with unlimited carryover periods must be maintained on tax forms and systems even when the credit has expired. Since tax credits usually are used within eight years, most recently enacted credits contain limited carryover period provisions, generally eight or ten years.

TECHNICAL CONSIDERATIONS

The definition of "transit pass" would require the mass transit vehicle to be "in" a redevelopment area. Amendments 2 and 3 would ensure the credit is allowed for transit passes used to commute to and from employment in a redevelopment area, rather than merely for riding mass transit through a redevelopment area.

This bill contains a date inconsistency between the employer credit under the PITL and the employee credit under the PITL and the employer credit under the B&CTL. To maintain consistency, the author may wish to change the PITL employer credit operative date to January 1, 2001, as proposed in attached Amendment 1.

BOARD POSITION

Pending.

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Attorney	Patrick Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 1754
As Amended June 13, 2000

AMENDMENT 1

On page 2, line 9, strikeout "2000" and insert:

2001

AMENDMENT 2

On page 3, line 17, before "in" insert:

to and from a place of employment located

AMENDMENT 3

On page 5, line 1, before "in" insert:

to and from a place of employment located